

**NO JUDGE YET
NAMED**

**TO HEAR FRANK
MOTION**

Retrial Hearing Will Be
Con-

ducted by One of
Four

Fulton Judges.

In view of the fact that much has been published in the daily press about the new judicial appointments for Atlanta and the court of appeals, and speculation has been indulged as to who would hear the motion for a new trial in the Leo M. Frank case.

The Constitution has made an effort to obtain the facts and to put at rest the discussion or doubt on the subject.

The Frank motion for new trial has been assigned for hearing on October 4, next. If the attorneys for Frank are ready with the motion at that time it will be for the first time served on the solicitor general. It will no doubt be a voluminous document and it is altogether probable that Mr. Dorsey, the state official who has so successfully conducted the prosecution, will want time to meet the grounds of the motion and to make a counter showing as to some of its allegations. If he needs it, judge Roan will no doubt give him the time necessary for the purpose and will postpone the further hearing of the motion to some definite time to be agreed on by the attorneys, or in the absence of an agreement, to be fixed by the judge.

As the solicitor general is thoroughly familiar with all the facts of the case, it is not likely that he will desire a long postponement.

Familiar With Details.

Judge Roan heard the case, is familiar with every phase of the evidence, and is, therefore, in a much better position to expedite the hearing and to do justice between the state and the accused than another judge who was not familiar with the record as made by Judge Roan. Besides the motion will necessarily contain exceptions to Judge Roan's rulings on the trial, and will also involve many questions left to the discretion of the trial judge. If in these discretionary matters Judge Roan found that he had committed harmful error, he could apply the remedy, but as to these discretionary matters another judge would probably not act. If, therefore, Judge Roan is still on the bench when the motion for another trial is ready to be heard, he will hear it and pass upon the questions made by it.

If before the motion is ready Judge Roan has taken his position on the bench of the court of appeals, he cannot hear it.

In this event that duty would devolve upon one of the judges of the superior court of the Atlanta circuit. Under the law as amended by the last legislature there are now four judges of the superior court of the Atlanta circuit. These judges have concurrent jurisdiction as to all civil and criminal cases. The act just passed provides that the fourth judge of the superior court "shall have all the powers, jurisdiction, duties and dignity of the other judges of the superior court of the Atlanta circuit."

Will Designate Judge.

If Judge Roan cannot hear the Frank motion for a new trial, then the judges will designate one of their number to hear it. It may be Judge Pendleton, Judge Ellis, Judge Bell or Judge Hill, and whichever one is so called upon by his associates to undertake the responsibility will do so as a part of his judicial work.

While it seems to be the opinion that Judge Hill will be selected by his associates to take charge of the felony business in Fulton county, yet there is no more reason why he should hear the Frank motion than any one of the other judges.

Atlanta is fortunate in having four judges of character, integrity and ability who will not shirk any official duty.

It is understood at the capitol that Judge Hill will finish all the cases that have been submitted to the court by October 11, and that on that date he will resign from the court of appeals and qualify as judge of the superior court. Also that on the same day Judge Roan will take his place on the court of appeals and Judge C. S. Reid will be sworn in as judge of the Stone Mountain circuit to succeed Judge Roan.

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WHITAKER WILL RUN

TO SUCCEED MANGUM

Another candidate for sheriff of Fulton county has entered the arena in the person of J. W. Whitaker, general yardmaster of the Southern railroad in Atlanta.

Mr. Whitaker is one of the best

**J. W.
WHITAKER**

known railroad men in Atlanta, having lived here for the past eighteen years, in that time rising from the position of switchman to the head of his department. He is a Georgian by birth, having been born in DeKalb county, near Wesley chapel, six miles south of Decatur.

Mr. Whitaker has never in his life held any kind of political position whatsoever, and in an interview given on Monday stated that, if elected, he would run the office along business lines.

One of the features of his campaign will be allowing each section of the city to select their deputy sheriffs by vote before the election in mass meeting, instead of appointing them himself on the slate.
